

# **Employees' Retirement Board Of Rhode Island Monthly Meeting Minutes Date of Meeting: May 10, 2006**

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m., Wednesday, May 10, 2006 in the 8<sup>th</sup> Floor Conference Room, 40 Fountain Street, Providence, RI.

## **I. Roll Call of Members**

The following members were present at roll call: Daniel L. Beardsley; William B. Finelli; John P. Maguire; John J. Meehan; Louis M. Prata; Peder A. Schaefer on behalf of Rosemary Booth Gallogly; General Treasurer Paul J. Tavares and Jerome F. Williams, designee for the Director of Administration; James P. Yancy.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Attorney William E. O'Gara, Board Counsel.

Recognizing a quorum, Treasurer Tavares called the meeting to order.

Michael R. Boyce arrived at 9:05 a.m.

## **II. Approval of Minutes**

On a motion by Jerome F. Williams and seconded by William B. Finelli, it was

**VOTED: To approve the minutes of the April 12, 2006 meeting of the Employees' Retirement System of Rhode Island Board.**

## **III. Chairman's Report**

Treasurer Tavares updated the Board on Separation of Powers. He apprised the Board that both the Senate and the House have had dialogue that gave indications of a possible consideration that the Retirement Board would be a non-executive board and thus, would be exclusive from Separation of Powers. The Treasurer said this determination would allow representation of all constituencies.

Mr. Maguire asked what the composition and make-up of the Board would be should the Board be considered a non-executive board. Treasurer Tavares informed the Board that the positions would remain the same i.e., appointed and elected.

#### **IV. Executive Director's Report**

Director Karpinski apprised the Board that the State/Teacher, State Police and Judicial actuarial valuation reports as of June 30, 2005 will be presented to the Board for review and approval at the June 14<sup>th</sup> Board meeting. He said the MERS valuation would be presented at the July 12<sup>th</sup> meeting.

Director Karpinski then informed the Board of two decisions handed down from the Supreme and Superior Courts. He said that legal counsel would provide the Board with an analysis of the decisions of Kevin M. Sheehan vs. ERSRI and Jeanne Rossi vs. ERSRI.

Director Karpinski provided the Board with the pension application processing report for the month of April 2006.

Mr. Boyce asked Director Karpinski about the status of the number of outstanding Full Time Equivalents (FTE) in the retirement division. Director Karpinski said they have hired an Accounting Manager, Susan DeStefanis. He also indicated that two Administrative Aide positions should be filled sometime next week. Interviews for another position are in progress. The Director said that once those positions are filled, only one FTE would be outstanding.

#### **V. Administrative Decisions**

##### **Disability Appeals**

*None this month*

##### **Hearing Officer Decisions**

*None this month*

#### **VI. Approval of April pensions as presented by ERSRI**

On a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the April pensions as presented by ERSRI.**

#### **VII. Legal Counsel Report**

Attorney O'Gara referred Board members to the legal report in the Board book and asked if there were any questions. He then provided the Board with an update on the Supreme Court decision in the matter of Jeanne Rossi vs. ERSRI. The matter involves the issue of what constitutes an "aggravation" under the statute relative to accidental disability pensions. Attorney O'Gara said the Supreme Court ruled that the Employees' Retirement System of Rhode Island "(ERSRI)" could not require a person

(who is alleging that they suffered an aggravation of a prior injury) to point to a specific event that precipitated the aggravation. The Court found that the law does not require such a standard and thus, the Board may not impose such a standard. Attorney O'Gara told the Board that the Court did uphold the position that a person claiming accidental disability must be disabled as a result of a specific accident. He informed the Board that the Supreme Court decision was to remand the matter back to the Board to make appropriate findings in connection with Ms. Rossi's application for accidental disability.

Attorney O'Gara then recommended to the Board that they move to remand the matter to the Disability Sub-Committee to review the specific issues that relate to Ms. Rossi.

On a motion by Louis M. Prata and seconded by John J. Meehan, it was unanimously

**VOTED: To remand the matter of Jeanne Rossi vs. ERSRI to the Disability Sub-Committee to make appropriate findings in connection Ms. Rossi's application for accidental disability consistent with the Supreme Court's decision.**

Treasurer Tavares informed the Board that the decision indicated that ERSRI lacks a policy and/or definition for aggravation. Thus, he felt it would be appropriate to request the Disability Sub-Committee to begin to construct a definition/policy for the word aggravation.

Mr. Beardsley requested that legal counsel review other state statutes regarding the definition of aggravation (as it relates to disability) to perhaps provide some consistency and avoid duplicative efforts. Attorney O'Gara agreed.

Attorney O'Gara then apprised the Board of the Superior Court decision of Kevin M. Sheehan vs. ERSRI. He told the Board that upon his review of the transcripts and related information, he will provide a recommendation to the Board on whether or not to appeal the matter to the Supreme Court.

Treasurer Tavares informed the Board that his office received a call prior to the Board meeting from The Providence Journal (the South County edition) regarding the Sheehan vs. ERSRI matter. He told the Board that there was a lengthy article published regarding the matter. The Treasurer also told the Board that the matter dates back to 2002 and many facts and documents will need to be reviewed coupled with the fact that the Board now has new counsel. He thought it was appropriate to allow Attorney O'Gara time to review the matter.

Mr. Finelli questioned the time available to appeal the matter if so voted by the Board. Attorney O'Gara told the Board the clock would run from the date when the attorneys prepare an order for presentation to the court. According to Attorney O'Gara, no order has yet been prepared.

Lastly, Attorney O'Gara apprised the Board that the system has received a letter from Attorney Gerald Cobleigh asking the Board to reconsider the matter of Anthony Soscia vs. ERSRI. Attorney O'Gara reminded the Board that the matter had involved the purchase of military service credits. He also told the Board it was unable to secure 8 votes in favor of or against the motion when the matter was brought to the Board at the February 2006 meeting. Attorney O'Gara told the Board that Attorney Cobleigh

requested the reconsideration of the matter based on the Albert Nixon vs. ERSRI decision. He indicated that both matters had different circumstances namely; Mr. Nixon's invoice for military time had no invoice date and Mr. Soscia's did. Treasurer Tavares felt it would be appropriate to allow Attorney Cobleigh the opportunity to have the matter brought back to the Board and recommended a motion as such.

On a motion by Michael R. Boyce and seconded by John P. Maguire, it was unanimously

**VOTED: To reconsider the matter of Anthony Soscia vs. ERSRI.**

Mr. Finelli recused himself from all discussion and voting on the matter of Anthony Soscia vs. ERSRI.

There being no further legal matters, on a motion by John P. Maguire and seconded by Michael R. Boyce, it was unanimously

**VOTED: To approve the Legal Counsel report as presented.**

## **VIII. Committee Reports**

**Disability Subcommittee:** The Disability Subcommittee recommended the following actions on disability applications as the result of its May 5, 2006 meeting for approval by the full Board:

Name	Membership Group	Type	Action
1. Maria Da Sailva	State	Ordinary	Approve
2. Evelyn Monk	State	Ordinary	Approve
3. Gil Mota	State	Ordinary	Approve
4. Nina Tasca	Municipal	Ordinary	Approve
5. Peter Prochniak	Municipal	Accidental	Table
6. Brian Terry	State	Accidental	Deny
7. Emmanuel Tutu	State	Accidental	Approve
8. Nellie Francis	Teacher	Accidental	Table
9. Anthony Tartaglia	State	Accidental	Approve

On a motion by William B. Finelli and seconded by Michael R. Boyce it was unanimously

**VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, May 5, 2006 on items 1, 2, 3, 4, 5, 6, 7, 9.**

On a motion by William B. Finelli and seconded by Michael R. Boyce it was unanimously

**VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, May 5, 2006 on items 8.**

Mr. Maguire recused himself from item 8.

**IX. New Business**

None this month.

**X. Adjournment**

There being no other business to come before the Board, on a motion by Jerome F. Williams and seconded by William B. Finelli the meeting adjourned at 9:20 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director